
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

OLEG MIKHAYLOVICH TISHCHENKO,

Defendant.

**ORDER GRANTING
MOTION TO CONTINUE**

Case No. 1:16-cr-00034 DAK

Based on the Motion to Continue Jury Trial filed by defendant, Oleg Mikhaylovich Tishchenko, in the above-entitled case, and for good cause appearing, the court makes the following findings:

1. Mr. Tishchenko made his initial appearance on the indictment returned in this matter before Magistrate Judge Brooke C. Wells on March 15, 2019. Jury trial was set for May 20, 2019, which was within the 70-day time period permitted by the Speedy Trial Act.
2. This is Defendant's first request for a continuance of the trial in this matter, and it is made in good faith and not merely for the purpose of delay.
3. The length of the delay requested is 90 days.
4. The delay between the filing of this motion and the new trial date is excludable under 18 U.S.C. §§ 3161(h)(1)(D) & (h)(7)(B)(iv). To this end, the additional time is necessary to address the Defendant's Motion to Dismiss and to afford counsel for the Defendant the reasonable time necessary for effective preparation.

5. In support of this assertion, defense counsel states as follows:

On May 6, 2019, the defense filed a Motion to Dismiss two counts of the five-count indictment. The government will need time to respond, and the motion will likely require a hearing. In addition, discovery has not been completed. To that end, defense investigator contacted the seller involved in the 2011 eBay transaction charged in counts 1, 2 and 3. The seller informed the defense that he was previously interviewed about this case by federal agents. The defense requested a copy of that interview. In addition, the defense has not yet received any reports from the investigation which continued past March of 2016.

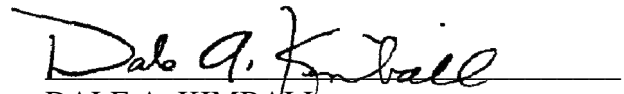
6. Mr. Tishchenko is currently in custody, he agrees with the proposed continuance, and agrees that it will not prejudice his defense. Additionally, he understands that the requested continuance will be excluded under the Speedy Trial Act.
7. There are no co-defendants in this case.
8. Continuing the trial date 90 days and excluding the time between now and the new date will provide defense counsel with the time needed to address the issues outlined in paragraph 5.
9. Failure to grant the proposed continuance would deny counsel for Defendant the reasonable time necessary for effective preparation of the case.

Based on the foregoing findings, the court concludes that failure to grant such a continuance would likely result in a miscarriage of justice. Therefore, the ends of justice served by such a continuance outweigh the best interests of the public and the defendant in a speedy trial.

THEREFORE, the 5-day Day Jury Trial previously scheduled to begin on May 20, 2019, is hereby continued to the 19th day of August, 2019, at 8:30 a.m. Accordingly, the time between the filing of the Motion, May 6, 2019, and the new trial date set forth above, August 19, 2019 is excluded from Defendant's speedy trial computation for good cause.

DATED this 6th day of May, 2019.

BY THE COURT:


DALE A. KIMBALL
United States District Court Judge